



# NEWSLINE

*An Official Publication of the Tennessee Auctioneer Commission  
Tennessee Department of Commerce and Insurance*



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## COMMISSION MEMBERS AND STAFF

### Jay Whirley, Chairman

Term 11/30/00 - 8/31/04

### Terri Walker, Board Member

Term 9/1/02 - 8/31/05

### Howard Phillips, Board Member

Term 9/1/03 - 8/31/06

### Charles Woodard, Board Member

Term 9/1/01 - 8/31/04

### James Brock, Consumer Member

Term 9/1/01 - 8/31/04

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### MISSION STATEMENT:

The mission of the Tennessee Auctioneer Commission is to protect the public and licensees by monitoring the auctioneer profession through licensure and regulation.

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DEPARTMENT OF COMMERCE & INSURANCE  
TENNESSEE AUCTIONEER COMMISSION  
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## Chairman's Report

by James "Jay" Whirley, Chairman

"It's the most wonderful time of the year." The song says it better than I can. The Holiday season is here and we all have much to be thankful for. I want to wish you and your family the happiest of Holiday seasons and a wonderful 2004.

I want to thank our TAC staff for the good work that they do on behalf of the auctioneers of this state. On a daily basis the TAC staff deals with requests for new licenses, renewal of existing licenses, disciplinary issues, renewal or approval of continuing education courses, education credits for licensees, investigations, requests for information, communications with other states and the Department of Commerce and Insurance, training, and many, many other tasks. I was not aware of the many tasks they deal with on a daily basis until I became a Commissioner. I want to thank Lynn McGill and her staff (Sandra Cooper and Dennis Hodges) for the great job they do all year long. They must deal with over 3,300 licensees on an annual basis as well as the public. That is a big job.

In the last TAC newsletter I told you about some of my concerns as a practicing auctioneer. Our goal as a Commission is to protect the public. With that goal in mind, it is the responsibility of the TAC to make sure that the policies, rules, and laws that pertain to auctioneers are enforced. It is also our responsibility to treat licensees fairly if they find themselves in front of the Commission for a violation.

It is also the responsibility of licensees to keep up with the changes in the law and implement them in their business. The purpose of this quarterly newsletter is to provide the Commission with a tool to keep each licensee informed. I suggest you read each newsletter carefully. Take steps to implement changes in your firm. Make sure each of those apprentices and auctioneers that work for you are aware of the changes. If you are in doubt about how to implement a change, call the TAC and make an inquiry. The staff will be happy to help you.

I want each licensee to know that I want to represent you as Chairman of the TAC and I am always open to your suggestions and ideas. Let's make 2004 the best year ever in the auction business.

 *The Holiday Spirit*

## Frequently Asked Questions

The following questions have been submitted by licensees attending the TAC Seminar Programs.

1. **Question: I have an auction firm and am listed as the principal auctioneer. I have an affiliate broker's license with another firm. Can we work together to have a real estate auction using my auction firm license and the other firm's real estate firm license?**

*Answer:* No. The rule is simple. The auctioneer and the real estate broker must be members of the same firm. There must be some unity and continuity among the auctioneer and broker with regard to writing and holding the contract, collecting and holding the earnest money, and having control over the auction management and closing process. There is no legal way to split the responsibilities of the auctioneer and broker when they are members of separate firms.

2. **Question: I own an auction barn. I have several consignors on a typical sale night. Do I have to have a consignment contract with each consignor every sale night listing all the items consigned?**

*Answer:* Yes. The law requires you to have a written contract with each of your consignors for every auction in which they consign items. There are forms available through vendors that act as the consignment agreement and closing statement in one document. The rule is for the protection of both parties with regard to what is being sold and how much the consignor is being charged.

3. **Question: Someone told me it was unethical to charge a buyer's premium. What is the position of the Auctioneer Commission?**

*Answer:* It is not unethical or illegal to charge a buyer's premium. It is unethical and illegal to advertise an auction without revealing you are going to charge a buyer's premium on auction day. The best policy is to properly disclose to potential auction attendees that you are going to charge a buyer's premium and the amount of the charge.

4. **Question: How does the TAC decide the amount of fines imposed on persons that violate the law?**

*Answer:* The TAC has tried to assess money fines that are commensurate with the law or rule violation. Small violations warrant small fines and large violations warrant large fines. The TAC tries to be fair and consistent with all the licensees when it comes to imposing money fines.

5. **Question: Are internet auctions required to have a Tennessee firm license?**

*Answer:* If an electronic media or computer-generated auction originates from within Tennessee, it shall conform to the requirements of the Tennessee Code Annotated, Title 62, Chapter 19 and the Rules of the Tennessee Auctioneer Commission. The TAC does not have jurisdiction over businesses or individuals that live outside the borders of Tennessee.

6. **Question: I was confined to the hospital for about six weeks with an illness. During my hospital stay and recovery, my Auctioneer license expires. Can I get my license back?**

*Answer:* Yes. The Rules of the TAC allow for licensees that are delinquent in renewing their licenses to renew them by applying to the Commission. There are money penalties for late renewals that range from \$50 to \$200, depending on the length of the delinquent period.

Upon written submission of good cause shown, the Commission may, by a majority vote, waive any or all of the penalties and other requirements.



**Disciplinary Corner**

<b>Name</b>	<b>Amount Paid</b>	<b>Action Taken</b>
Johnson & Johnson Real Estate & Auction, Inc <b>Nature of Offense:</b> Respondent allowed a broker to sign a contract. Tennessee Auctioneer Commission Law, § 62-19-111. (11) General licensing provisions. All contracts for services to be performed by an auction firm, except an auto auction as defined in § 55-17-102(2), must be negotiated for and signed by an auctioneer who is a member of the firm or by the auctioneer's attorney.	\$500.00 Paid	Consent Order
Earl Lawson <b>Nature of Offense:</b> Respondent engaged in improper business practices by conducting an auction without the contract being properly signed. Tennessee Auctioneer Commission Law 62-19-112.(7)	\$250.00 Paid	Reduced & Amended Consent Order
Goodwin – Street Auction Company <b>Nature of Offense:</b> Respondent engaged in improper business practices by conducting an auction without the contract being properly signed. Tennessee Auctioneer Commission Law 62-19-112.(7)	\$250.00 Paid	Consent Order
L. D. Hill & Sons Auctioneers <b>Nature of Offense:</b> Respondent engaged in improper business practices by conducting an auction without the contract being properly signed. Tennessee Auctioneer Commission Law 62-19-112.(7)	\$250.00 Paid	Consent Order
Target Auction & Land Co. <b>Nature of Offense:</b> Respondent conducted auction activity before being properly licensed as a firm. Tennessee Auctioneer Commission Law, § 62-19-102.(a)(1) It is unlawful for any person to: (1) Act as or advertise or represent to be, an auctioneer, apprentice auctioneer, or firm without holding a valid license issued by the commission under this chapter or prior state law: rule 0160-1-.11	\$2,500.00 Paid	Citation
Daniel Cash <b>Nature of Offense:</b> Respondent conducted auction activity before being properly licensed as an auctioneer. Tennessee Auctioneer Commission Law, § 62-19-102.(a)(1) It is unlawful for any person to: (1) Act as or advertise or represent to be, an auctioneer, apprentice auctioneer, or firm without holding a valid license issued by the commission under this chapter or prior state law: rule 0160-1-.11	\$1000.00 Paid	Citation
Meek's Auction <b>Nature of Offense:</b> Respondent ran an advertisement that was in violation of Advertising Guidelines rule 0160-1-.20(1) Advertising in any form that is designed to give notice of an upcoming auction must include the name and license number of the auction firm or gallery responsible for holding the sale.	\$100.00 Paid	Agreed Citation
Abdalla of Atlanta Inc <b>Nature of Offense:</b> Respondent ran an advertisement that was in violation of Advertising Guidelines rule 0160-1-.20(1) Advertising in any form that is designed to give notice of an upcoming auction must include the name and license number of the auction firm or gallery responsible for holding the sale.	\$100.00 Paid	Agreed Citation
Fowler Auction & Real Estate Services Inc <b>Nature of Offense:</b> Respondent ran an advertisement that was in violation of Advertising Guidelines rule 0160-1-.20(1) Advertising in any form that is designed to give notice of an upcoming auction must include the name and license number of the auction firm or gallery responsible for holding the sale.	\$100.00 Paid	Agreed Citation
Seymour Auction Company (Branch) <b>Nature of Offense:</b> Respondent ran an advertisement that was in violation of Advertising Guidelines rule 0160-1-.20(1) Advertising in any form that is designed to give notice of an upcoming auction must include the name and license number of the auction firm or gallery responsible for holding the sale.	\$100.00 Paid	Agreed Citation

## Seminar Set for March 18, 2004

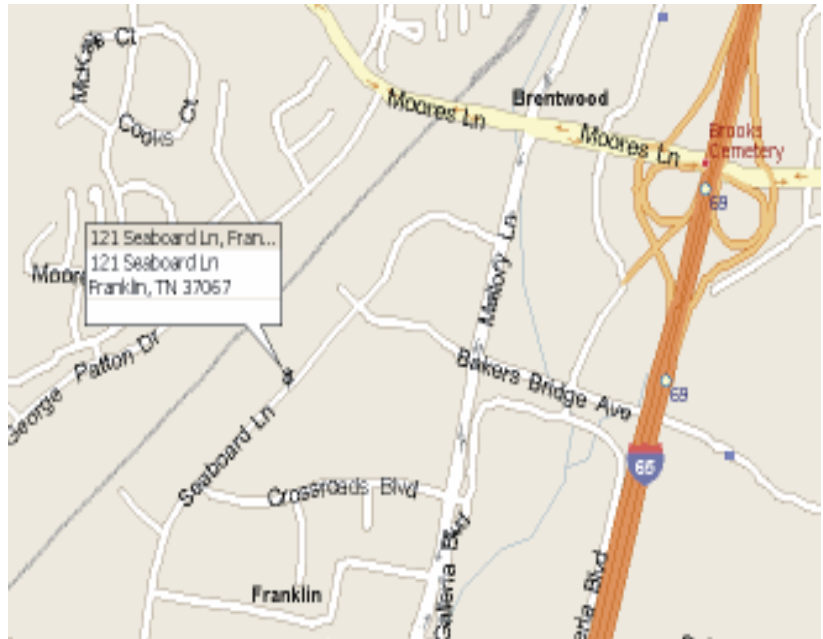
The next scheduled Free Seminar provided by the Tennessee Auctioneer Commission will be held on March 18, 2004 at the Cool Springs YMCA facilities located in Brentwood, Tennessee. Our speaker will be Larry Brandon, Attorney at Law, from Murfreesboro, Tennessee.

Larry Brandon, an Assistant Professor at Middle Tennessee State University, attended Nashville Auction School and received his license in 1984. Larry will be speaking to us concerning estates. Look for further information in the March newsletter.

### ***Facts at a Glance...***

Date: Thursday, March 18, 2004  
 Time: 8:00 a.m.  
 Place: Cool Springs YMCA  
 121 Seaboard Lane,  
 Franklin, TN  
 615-661-4200  
 Topic: "Aspects of Estates"  
 Credit 6 hours auctioneer credit

**Pre-registration: None**



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